

APPEAL NO. 030452
FILED APRIL 14, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on January 22, 2003. With respect to the disputed issues before her, the hearing officer determined that the respondent's (claimant) _____, injuries sustained in a motor vehicle accident (MVA) were compensable since they arose out of and in the course and scope of her employment. In addition, the hearing officer determined that the claimant had resulting disability from September 6 through November 15, 2002. The appellant (carrier) appeals on sufficiency of the evidence grounds, arguing that this case is indistinguishable from previous Appeals Panel and appellate court cases standing for the proposition that if a claimant is simply going to or coming from an alternate work site, injuries sustained in an MVA during that "travel" are not in the course and scope of employment and thus not compensable. There is no response in the file from the claimant.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's injuries sustained in an MVA while on her way to a work meeting on _____, were compensable. The parties do not dispute that the claimant sustained harm to her person in the MVA while on her way to a work meeting. The only issue in dispute was whether the claimant was in the "course and scope" of her employment at the time of the MVA. The claimant testified that she was traveling to a meeting at a hotel at the instruction of her supervisor, who also told her that she could work at home until she left for the meeting. The claimant further testified, and introduced supporting documentation, that her workday began at 8:15 am. Five minutes after leaving her home and on her way to the meeting, the claimant was involved in the MVA at approximately 9:00 am. The hearing officer resolved that the claimant's activities at the time of the MVA fell within the exception to the "going and coming" noncompensability under Section 401.011(12)(A)(iii) which reads as follows:

"Course and scope of employment" means an activity of any kind or character that has to do with and originates in the work, business, trade, or profession of the employer and that is performed by an employee while engaged in or about the furtherance of the affairs or business of the employer. The term includes an activity conducted on the premises of the employer or at other locations. The term does not include:

- (A) transportation to and from the place of employment unless:

- (iii) the employee is directed in the employee's employment to proceed from one place to another place[.]

The Appeals Panel has called this exception to the "going and coming" doctrine the "special mission" exception. The carrier argues that the facts do not support that the claimant was on a "special mission" for her employer, and that the claimant was simply "going to" her employment. The hearing officer determined that the claimant was, in fact, on a "special mission" for her employer and therefore, the injuries she sustained in the MVA on _____, were compensable. The hearing officer's findings are not against the great weight the evidence.

"Disability" means the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage. Section 409.011(16). The record supports the hearing officer's conclusion that the claimant had disability from September 6 through November 15, 2002, as the medical evidence shows that the claimant had several surgeries to repair her multiple bone fractures and had consequent recovery time.

The hearing officer's decision and order is affirmed.

The true corporate name of the insurance carrier is **ST. PAUL FIRE AND MARINE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Terri Kay Oliver
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge